

MONTANA LEGISLATIVE HISTORY

Chapter 102 19 83

Bill H 128 S \_\_\_\_\_ Original bill & history ✓ C

H. Committee on Human Services

Hearing Date(s) Jan 17 ✓ C

Jan 19 ✓ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Date Out Jan 19 ✓ C

S. Committee on Public Health

Hearing Date(s) Mar 02 ✓ C

Mar 04 ✓ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Mar 04 ✓ C

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Did this bill originate in an interim committee? \_\_\_\_\_ Yes \_\_\_\_\_ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

ENDING SECTION ....

BY REQUEST OF: THE DEPARTMENT OF LIVESTOCK

INTRODUCED: 01/07/83

REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/07/83

HEARING: 1/17/83

REPORT: 01/21/83, DO PASS, AS AMENDED

2ND READING: 01/24/83, DO PASS AYES: 95; NAYS: 0

3RD READING: 01/26/83, DO PASS AYES: 94; NAYS: 0

TRANSMITTED TO SENATE: 1/26/83

REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/27/83

HEARING: 2/7/83

REPORT: 02/08/83, BE CONCURRED IN

2ND READING: 02/11/83 AYES: 49; NAYS: 0

3RD READING: 02/14/83 AYES: 50; NAYS: 0

RETURNED TO HOUSE: 2/14/83

TRANSMITTED TO GOVERNOR: 02/21/83

SIGNED: 2/24/83, CHAPTER 35

128 -- SCHNE, METCALF -- TO CLARIFY THAT THE SCHOOL IMMUNIZATION REQUIREMENTS MUST BE MET AT THE TIME A PERSON COMMENCES SCHOOL ATTENDANCE RATHER THAN THE TIME OF ENROLLMENT; AMENDING SECTIONS ...; AND PROVIDING AN EFFECTIVE DATE.

BY REQUEST OF: THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

INTRODUCED: 01/08/83

REFERRED TO COMMITTEE ON HUMAN SERVICES: 01/08/83

HEARING: 1/17/83

REPORT: 01/20/83, DO PASS

2ND READING: 01/24/83, DO PASS AYES: 95; NAYS: 1

3RD READING: 01/26/83, DO PASS AYES: 95; NAYS: 0

TRANSMITTED TO SENATE: 1/26/83

REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 01/27/83

HEARING: 3/2/83

REPORT: 03/04/83, BE CONCURRED IN

2ND READING: 03/07/83 AYES: 48; NAYS: 0

3RD READING: 03/09/83 AYES: 50; NAYS: 0

RETURNED TO HOUSE: 03/9/83

TRANSMITTED TO GOVERNOR: 03/15/83

SIGNED: 3/16/83, CHAPTER 102

129 -- KITSELMAN -- TO AMEND AND CLARIFY TERMINOLOGY IN SECTION ... RELATING TO MANDATORY PROVISIONS AFFECTING A LOCAL GOVERNMENT WITH SELF-GOVERNMENT POWERS.

INTRODUCED: 01/08/83

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/08/83

HEARING: 2/5/83

REPORT: 02/12/83, DO PASS

2ND READING: 02/15/83, DO PASS AYES: 94; NAYS: 0

3RD READING: 02/17/83, DO PASS AYES: 94; NAYS: 0

TRANSMITTED TO SENATE: 2/17/83

HOUSE BILL NO. 128

INTRODUCED BY SCHYE, METCALF

BY REQUEST OF THE DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

|                  |                                                                                                     |
|------------------|-----------------------------------------------------------------------------------------------------|
| January 8, 1983  | Introduced and referred to Committee on Human Services.                                             |
| January 20, 1983 | Committee recommend bill do pass. Report adopted.<br><br>Bill printed and placed on members' desks. |
| January 24, 1983 | Second reading, do pass.                                                                            |
| January 25, 1983 | Considered correctly engrossed.                                                                     |
| January 26, 1983 | Third reading, passed.<br>Transmitted to Senate.                                                    |

IN THE SENATE

|                  |                                                                            |
|------------------|----------------------------------------------------------------------------|
| January 27, 1983 | Introduced and referred to Committee on Public Health, Welfare and Safety. |
| March 4, 1983    | Committee recommend bill be concurred in. Report adopted.                  |
| March 7, 1983    | Second reading, concurred in.                                              |
| March 9, 1983    | Third reading, concurred in. Ayes, 50; Noes, 0.                            |

IN THE HOUSE

March 9, 1983

Returned to House.

March 10, 1983

Sent to enrolling.

Reported correctly  
enrolled.

1 *House* BILL NO. *128*  
 2 INTRODUCED BY *Sen. Nulca*  
 3 BY REQUEST OF THE DEPARTMENT OF  
 4 HEALTH AND ENVIRONMENTAL SCIENCES

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE  
 7 SCHOOL IMMUNIZATION REQUIREMENTS MUST BE MET AT THE TIME A  
 8 PERSON COMMENCES SCHOOL ATTENDANCE RATHER THAN THE TIME OF  
 9 ENROLLMENT; AMENDING SECTIONS 20-5-403 THROUGH 20-5-405 AND  
 10 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 20-5-403, MCA, is amended to read:

14 "20-5-403. Immunization required -- grace period for  
 15 transfers. (1) ~~A The governing authority may not enroll any~~  
 16 ~~person--as-a-pupil--in of any school may not allow any person~~  
 17 ~~to commence attendance as a pupil~~ unless the person:

18 (a) has been immunized against diphtheria, pertussis,  
 19 tetanus, poliomyelitis, rubella, and measles (rubeola) in  
 20 the manner and with immunizing agents approved by the  
 21 department, except that pertussis vaccination is not  
 22 required for a person 7 years of age or older;

23 (b) qualifies for conditional enrollment attendance;

24 (c) files for an exemption; or

25 (d) is a pupil transferring from another school

1 district, in which case the provisions of subsection (2)  
 2 apply.

3 (2) A person who transfers from one school district to  
 4 another has 30 calendar days after commencement of  
 5 attendance at the school to which he or she transfers to  
 6 either complete immunization as specified in subsection  
 7 (1)(a), commence immunization in the manner required by  
 8 20-5-404, or file for an exemption. If none of the foregoing  
 9 actions is taken within 30 days, the transfer pupil is  
 10 prohibited from further attendance until such action is  
 11 taken."

12 Section 2. Section 20-5-404, MCA, is amended to read:

13 "20-5-404. Conditional enrollment attendance. ~~A The~~  
 14 ~~governing authority of a school may allow the commencement~~  
 15 ~~of attendance in school by a~~ person who has not been  
 16 immunized against each disease listed in 20-5-403 ~~may be~~  
 17 ~~enrolled by the governing authority on condition that he if~~  
 18 ~~that person~~ has received one or more doses of polio, measles  
 19 (rubeola), rubella, diphtheria, pertussis, and tetanus  
 20 vaccine, except that pertussis vaccine is not required for a  
 21 person 7 years of age or older."

22 Section 3. Section 20-5-405, MCA, is amended to read:

23 "20-5-405. Personal, religious, or medical exemption.  
 24 (1) When a parent, guardian, or adult who has the  
 25 responsibility for the care and custody of a minor seeking

-2- INTRODUCED BILL

HB 128

1 ~~enrollment to attend school~~, or the person seeking  
 2 ~~enrollment to attend school~~, if an adult, signs and files  
 3 with the governing authority a written statement on a form  
 4 prescribed by the department stating that immunization is  
 5 contrary to the personal or religious beliefs of the signer,  
 6 immunization of the person seeking ~~enrollment to attend~~  
 7 ~~school~~ may not be required prior to ~~enrollment commencement~~  
 8 ~~of attendance~~ in any school. The statement must be  
 9 maintained as part of the person's immunization records.

10 (2) When a parent, guardian, or adult who has the  
 11 responsibility for the care and custody of a minor seeking  
 12 ~~enrollment to attend school~~, or the person seeking  
 13 ~~enrollment to attend school~~, if an adult, files with the  
 14 governing authority a written statement signed by a  
 15 physician licensed to practice medicine in any jurisdiction  
 16 of the United States or Canada stating that the physical  
 17 condition of the person seeking ~~enrollment to attend school~~  
 18 or medical circumstances relating to him indicate that some  
 19 or all of the required immunizations are not considered safe  
 20 and indicating the specific nature and probable duration of  
 21 the medical condition or circumstances which contraindicate  
 22 immunization, he is exempt from the requirements of this  
 23 part to the extent indicated by the physician's statement.  
 24 The statement must be maintained as part of the person's  
 25 immunization records.

1 (3) Whenever there is good cause to believe that a  
 2 person for whom an exemption has been filed under this  
 3 section has a disease or has been exposed to a disease  
 4 listed in 20-5-403 or will as the result of school  
 5 attendance be exposed to such disease, the person may be  
 6 excluded from the school by the local health officer or the  
 7 department until the excluding authority is satisfied that  
 8 the person no longer risks contracting or transmitting that  
 9 disease. The exclusion period may not exceed 30 calendar  
 10 days."

11 Section 4. Section 20-5-403, MCA, is amended to read:  
 12 "20-5-403. Enforcement. (1) The governing authority of  
 13 any school shall prohibit from further attendance any pupil  
 14 ~~enrolled allowed to attend~~ conditionally who has failed to  
 15 obtain the immunizations required by 20-5-403(1) within time  
 16 periods established by the department until that pupil has  
 17 been immunized as required by the department or unless that  
 18 pupil has been exempted under 20-5-405.

19 (2) Each governing authority shall file a written  
 20 report on the immunization status of all pupils under its  
 21 jurisdiction with the department and the local health  
 22 department at times and on forms prescribed by the  
 23 department.

24 (3) The local and state health departments shall have  
 25 access to all information relating to immunization of any

1 pupil in any school."

2 NEW SECTION. Section 5. Saving clause. This act does  
3 not affect rights and duties that matured, penalties that  
4 were incurred, or proceedings that were begun before the  
5 effective date of this act.

6 NEW SECTION. Section 6. Severability. If a part of  
7 this act is invalid, all valid parts that are severable from  
8 the invalid part remain in effect. If a part of this act is  
9 invalid in one or more of its applications, the part remains  
10 in effect in all valid applications that are severable from  
11 the invalid applications.

12 NEW SECTION. Section 7. Effective date. This act is  
13 effective July 1, 1983.

-End-

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE  
January 17, 1983

The meeting of the Human Services Committee was called to order by Chairman Marjorie Hart, January 17, 1983, Room 224A, at 12:30 p.m. All members were present except Rep. Winslow, who was absent.

HOUSE BILL 128. REP. SCHYE, sponsor, stated that House Bill 28 is a bill to clarify that the school immunization requirements must be met at the time a student commences school attendance rather than the time of enrollment. He said that the bill enacted in 1979 does not define "enrollment"; and, therefore, there is no consistency. It has caused confusion between the health people and the school people. This bill requires that when a person physically presents himself to go to school, he is to have been immunized. The State Health Department and the Department of Public Instruction feel this clarification is needed (EXHIBIT 1).

PROPONENTS:

CHIP EDMONS, Montana School Board Association, said he felt it would take away the confusion that now exists (EXHIBIT 2).

OPPONENTS: None

REP. SCHYE closed on HOUSE BILL 128.

CHAIRMAN HART closed the hearing on HOUSE BILL 128.

HOUSE BILL 153. REP. KITSELMAN, sponsor, said this bill authorizes the Department of Social and Rehabilitation Services to contract with a senior citizens' organization to establish a mock legislature; appropriates money for the contract on a matching basis; and provides an effective date. This bill would appropriate on a matching basis, dollar-for-dollar, up to \$5,000 to fund the Legacy Legislature. Two things are unique about the Legacy Legislature: (1) it has brought to a form in the past problems that concern parents and friends and (2) the legislative process should be open to all persons. This bill would allow all to participate in the forum regardless of economic status.

PROPONENTS:

STAN ROGERS, Area II, Senior Citizens Advocate, supports receiving matching funds to permit them to provide minimum financial support to carry out the objectives of the Legacy Legislature (EXHIBIT 3).



# Office Memorandum •

STATE DEPARTMENT  
AND ENVIRONMENTAL SCIENCES

TO : Ted Schye  
FROM : M. Richard Nelson  
SUBJECT : Justification of House Bill No. 128  
~~XXXX~~

DATE: January 14, 1983

This is a bill for an act entitled: "An act to clarify that the school Immunization requirements must be met at the time a person commences school attendance rather than the time of enrollment; amending sections 20-5-403 through 20-5-405 and 20-5-408, MCA; and providing an effective date."

The present school immunization law does not define "enrollment" as to when enrollment can or must take place, thus a consistent date is not designated. This term has caused some confusion for both school and health officials.

In order to develop consistency between the school immunization law and the compulsory school attendance provision in the education statute, the State Health Department in consultation with the Office of Public Instruction consider the clarification in this amendment to be prudent and wise.

<sup>MCA</sup>  
Section 20-5-103 ~~AND~~ "Compulsory attendance and excuses (1)" reads "Except as provided in subsection (2) any parent, guardian, or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district...."

As an example of how this confusion occurs, a person may be pre-registered and enrolled during a pre-school roundup for the following school year. There has been confusion among some school administrators concerning whether a pre-enrolled child must meet the immunization requirements at that time or if they must meet the requirements when attendance begins the following school year.

By amending the immunization law, the point in time when a person must meet the requirements, will be stipulated to be when the person physically presents him or herself at school to commence attendance rather than when enrollment takes place. In conclusion, measles or any other immunizable childhood disease is not spread when a parent enrolls a child on paper, but rather when the child physically attends school.

WITNESS STATEMENT

NAME Chip Edmann BILL No. 128  
ADDRESS Helen, MT DATE 1/17/83  
WHOM DO YOU REPRESENT MT School Bd Assoc  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Support this clarification  
of the school immunization  
statutes.

## VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 128

Date 1-17-83

SPONSOR SCHYE

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

REP. SWIFT said the sponsor would be amenable to the amendments. When you have a problem that the neighborhood is going to be impacted by, the individuals should be notified and then the meeting would be productive.

CHAIRMAN HART asked if the Zoning Commission had the right to determine if the home should be in the area. REP. SWIFT answered if you have eight, that takes the Zoning Commission out of it. It is in that district and it is already set.

REP. DARKO stated that when she hears the word "hearing", she feels that she is going to have input. CHAIRMAN HART recommended that we change the word "hearing" to "meeting".

REP. KEYSER moved that all four amendments to HOUSE BILL 28, introduced with the original copy of the bill by REP. KITSELMAN, be accepted.

REP. WINSLOW said he had no problem with the third amendment. He felt that in the third amendment we should strike "located in or as near as possible to the neighborhood" and insert "." after "building".

REP. KEYSER approved the amendment to the amendment. The motion of the amendments carried with REPS. FARRIS and HANSEN voting no.

CHARIMAN HART asked if there were any other amendments that the Committee wanted to suggest.

REP. DARKO moved to amend the word "hearing" to "meeting" throughout the bill. The vote was carried unanimously.

There was discussion as to what a meeting would cost and to whom the notices should be sent. The cost of the meeting is to be borne by the home owner; and regarding notification, even if someone in another town has to be notified, it would only involve the cost of a letter.

REP. KEYSER moved HOUSE BILL 28 DO PASS AS AMENDED. The motion passed with nine (REPS. BRAND, DARKO, KEYSER, JONES, MENAHAN, SEIFERT, SOLBERG, SWIFT, WINSLOW) voting yes and seven (REPS. FARRIS, BROWN, CONNELLY, DOZIER, DRISCOLL, HANSEN and CHAIRMAN HART) voting no.

HOUSE BILL 128. REP. DOZIER moved that HOUSE BILL 128 DO PASS. IT PASSED unanimously.

# STANDING COMMITTEE REPORT

January 19, 1983

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 128

first reading copy (white)  
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE SCHOOL IMMUNIZATION REQUIREMENTS MUST BE MET AT THE TIME A PERSON COMMENCES SCHOOL ATTENDANCE RATHER THAN THE TIME OF ENROLLMENT; AMENDING SECTIONS 20-5-403 THROUGH 20-5-405 AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 128

DO PASS

MINUTES OF THE MEETING  
PUBLIC HEALTH AND WELFARE  
MONTANA STATE SENATE

March 2, 1983

The meeting of the Public Health and Welfare Committee was called to order by Chairman Tom Hager on March 2, 1983 at 1:00 p.m. in Room 410, State Capitol.

ROLL CALL: Roll was called with Senators Hager, Marbut, Himsl, Christiaens present. Those Senators late: Senators Stephens, Jacobson and Norman.

HOUSE BILL NO. 128: Hearing commenced on House Bill No. 128, introduced by Representative Schye. Representative Schye told the committee he introduced this bill by request of the Department of Health and Environmental Sciences. The title of the bill tells it all. It is an act to clarify that the school immunization requirements must be met at the time a person commences school attendance rather than the time of enrollment. In Section 1, line 15, language is changed to read: "The governing authority of any school may not allow any person to commence attendance as a pupil unless the person:" Also, throughout the bill, enrollment is replaced by "attendance". Representative Schye went through the changes in the bill.

Senator Marbut asked Representative Schye if there might be a problem with the local health department concerning Page 2, Section 2.

Representative Schye said no, as the local health department has input into the vaccination criteria that the governing authority of the school allows.

There being no further discussion, hearing on House Bill No. 128 was closed.

HOUSE BILL NO. 262: Hearing commenced on House Bill No. 262, introduced by Representative Schye. Representative Schye told the committee he introduced this bill by request of the Department of Institutions. It is an act to conform the definition of developmentally disabled for treatment purposes to that for purposes of community-based programs and residential facilities. Developmentally disabled means suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals, if the disability originated before the individual attained age 18, has continued or can be expected to continue indefinitely and constitutes a substantial

BILL

VISITORS' REGISTER

DATE 3/2/83

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPO

Elmer B Davis

Self

90

X

Chris J Davis

Walter A Rogers

Self

90

X

Dennis V. Barker

Self

90

X

Judith Fenton

Federated Humane Soc. of MT

90

✓

Dianne Nickman

Lewis &amp; Clark Humane Society

90

✓

Darlene Korman

Billing Animal Shelter

90

✓

John J. Kuffel

Shelby Humane Society

90

✓

Curt Chisholm

Dept. of Institutions

HB 262

✓

Richard Nelson

Dept. Health

HB 128

✓

Joe Roberts

DD/LAC

HB 28

✓

Pat Neeling

LBSS

HB 28

✓

FRANK J. DAVIS

MT. ST. PHARM. ASSN.

HB 70

Diane Lane

Bozeman MT

90

✓

David B Lackman

MT. Health Assn. Helene

HB 28

✓

" "

" "

HB 128

✓

Jack Ellery

DEPT SRS

HB 28

✓



PUBLIC HEALTH AND WELFARE

March 4, 1983

Page 4

days. Once they have reached their 30 day commitment, many like to leave and right now we have no authority to keep them and make them finish the therapy program. The therapy program is 28 days. By extending this to 40 days, they will be able to finish the program. We can release them under the 40 days, if they finish the program.

Senator Marbut asked why the program is 28 days.

Curt Chisholm said the 28 day program is processing the individual through the first five of a twelve step program of AA. This includes therapy with the family. It seems to be pretty standard.

Senator Marbut asked if they will be back to try to extend it in the future.

Curt Chisholm said he felt it would stay at the 40 day period. We would not want to go much beyond what we are right now.

Senator Himsel asked if the de-tox period is generally done in two days.

Curt Chisholm said it can take from two to ten days, depending on how severe the alcohol problem is. We are talking about withdrawal.

There being no further discussion, hearing on House Bill No. 223 was closed.

ACTION ON HOUSE BILL NO. 223: Senator Christiaens made the motion that House Bill No. 223 BE CONCURRED IN. The motion passed unanimously. Senator Jacobson will carry the bill on the floor on the Senate.

ACTION ON HOUSE BILL NO. 262: Senator Jacobson made the motion that House Bill No. 262 BE CONCURRED IN. The motion carried unanimously. Senator Hager will carry the bill on the floor of the Senate.

ACTION ON HOUSE BILL NO. 128: Senator Jacobson made the motion that House Bill No. 128 BE CONCURRED IN. The motion carried with Senator Marbut voting no. Senator Jacobson will carry the bill on the floor of the Senate.

ACTION ON HOUSE BILL NO. 90: Senator Marbut gave the sub-committee's report on House Bill No. 90. It was the sub-committee's opinion that we were getting ourselves into a complicated situation. It was difficult to arrive at a decision, just given the testimony of the Humane Societies. I think we all heard Representative Harper say if the amendments were

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SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date 3/4/83 HB 128 Bill No. \_\_\_\_\_ Time \_\_\_\_\_

| NAME                      | YES    | NO |
|---------------------------|--------|----|
| SENATOR TOM HAGER         | ✓      |    |
| SENATOR REED MARBUT       |        | ✓  |
| SENATOR MATT HIMSL        | ✓      |    |
| SENATOR STAN STEPHENS     | absent |    |
| SENATOR CHRIS CHRISTIAENS | ✓      |    |
| SENATOR JUDY JACOBSON     | ✓      |    |
| SENATOR BILL NORMAN       | ✓      |    |
|                           |        |    |
|                           |        |    |
|                           |        |    |
|                           |        |    |
|                           |        |    |
|                           |        |    |

Carol Francis  
Secretary

Ken Hays  
Chairman

Motion: Senator Jacobson made the motion that House Bill  
No. 128 Be Concurred In. The motion carried  
with Senator Marbut voting no. Jacobson  
will carry.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT.

Page 13

March 4

19 33

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH AND WELFARE

having had under consideration House Bill No. 123

Schye (Jacobson)

Respectfully report as follows: That House Bill No. 123

BE CONCURRED IN  
~~DEPASSES~~